462; *cf. Leach* v. *Hill*, 106 Iowa, 171, 76 N. W. 667; *The Chelmsford*, 34 Fed. 399. *Contra, National Market Co.* v. *Maryland Casualty Co.*, 100 Wash. 377, 174 Pac. 479. So it seems possible to say that the indorsement transferred to the plaintiff the payee's quasi-contractual right to recover the value of the consideration transferred. See 1 DANIELS, NEGOTIABLE INSTRUMENTS, 5 ed., § 226. *Cf. Burrill* v. *Stevens, supra.* Moreover, the case is aided in result by the analogy of another section of the Negotiable Instruments Law allowing a recovery *pro tanto* in case of a partial failure of consideration. See NEGOTIABLE INSTRUMENTS LAW, § 28; 1909 MO. REV. STAT., c. 86, § 9999. The decision, though not founded on the express provisions of the Negotiable Instruments Law, seems therefore to construe that statute wisely.

CHOSES IN ACTION — GIFTS — PAROL GIFT OF A DEBT TO TAKE EFFECT IN ENJOYMENT ON THE DEATH OF THE DONOR. — A woman desired to make a gift of $1000 to a grandaughter at the woman's death. In the presence of the girl's father she orally directed a son, who owed her $1400, to pay $1000 of that debt at her death to the granddaughter, unless the girl reached the age of eighteen before the creditor's death, in which case she would pay the girl herself. After payment according to these directions the son was sued by his mother's administrator for the debt. *Held*, that the action be dismissed. *Dinslage* v. *Stratman*, 180 N. W. 81 (Neb.).

For a discussion of this case, see NOTES, page 664, *supra.*

CONSTITUTIONAL LAW — POLICE POWER — GAME LAWS: POSSESSION OF FISH DURING CLOSED SEASON. — An Oregon statute prohibited the sale or possession, during the closed season of the year, of salmon caught beyond the three-mile line outside the Columbia River. *Held*, that this prohibition is constitutional. *Union Fishermen's Co-op. Packing Co.* v. *Shoemaker*, 193 Pac. 476 (Ore.).

The case involves two constitutional questions. First, is such a statute a valid exercise of the police power? The regulation of game and fish is under the police power of the state. See *Lawton* v. *Steele*, 152 U. S. 133, 138. And to attain the desired end, preservation of the food supply, rights in property may be restricted. *Commonwealth* v. *Gilbert*, 160 Mass. 157; *Magner* v. *People*, 97 Ill. 320. Secondly, is the statute an unwarranted interference with interstate commerce? At one time it was held that such a prohibition if applied to fish caught outside the state would be unconstitutional. *In re Davenport*, 102 Fed. 540. See *Commonwealth* v. *Wilkinson*, 139 Pa. 298, 305, 21 Atl. 14, 15. But finally the opposite view prevailed, the argument being that any other rule would make difficult, if not impossible, detection of evasions of the local law. *State of New York ex rel. Silz* v. *Hesterberg*, 211 U. S. 31 (S. C. 184 N. Y. 126, 76 N. E. 1032); *People* v. *Lassen*, 142 Mich. 597, 106 N. W. 143. See 14 HARV. L. REV. 288. The statute in the principal case referred only to fish caught in the sea below the Columbia River, and not, for example, to fish caught in a river in another state. This statute goes further, illogical as this may seem, than previous statutes forbidding possession of fish wherever caught. For the prohibition in the previous statutes was a mere incident of the enforcement of the law as regards domestic fish, while in this statute there is an indirect inhibition of a foreign act to increase the domestic supply. It is submitted, however, that the means are reasonable and that the statute may be supported by the application of old principles. See *In re Deininger*, 108 Fed. 623.

CONSTITUTIONAL LAW — POLICE POWER — VALIDITY OF STATUTE PROVIDING FOR DESTRUCTION OF INFECTED TREES TO PROTECT ADJACENT ORCHARDS. — The apple-growers of Virginia were seriously hampered by the

plant disease known as "cedar rust." The legislature accordingly enacted a rather elaborate statute authorizing the state entomologist to order the destruction of infected cedar trees adjacent to apple orchards. From the summary proceeding and judgment of the entomologist an appeal was allowed. In some instances damages were recoverable. A failure to destroy the trees as ordered was unlawful. (VA. ACTS 1914, p. 49.) *Held*, that the statute is constitutional. *Bowman* v. *Virginia State Entomologist*, 105 S. E. 141 (Va.).

Reasonable regulations to protect the agricultural industry from the ravages of pests and infection have often been upheld as within the limits of legitimate police regulation. *Los Angeles Co.* v. *Spencer*, 126 Calif. 670, 59 Pac. 202; *State* v. *Main*, 69 Conn. 123, 37 Atl. 80. And it is no objection that the regulation entails the destruction of private property. *Balch* v. *Glenn*, 85 Kans. 735, 119 Pac. 67; *State Board* v. *Tanzman*, 140 La. 756, 73 So. 854. Undeniably the methods adopted by the legislature must be reasonable. And as for this particular statute it is submitted that its detailed safeguards and provisions are commendable in every respect. To be sure, the legislature might have provided for compensation analogous to that given in eminent domain proceedings. This, however, is a consideration for the legislature alone. As has already been indicated, once having established that the destruction of private property in a particular case comes under the scope of the police power, the owner can be denied a remedy for the loss sustained. *Mugler* v. *Kansas*, 123 U. S. 623; *State Board* v. *Tanzman*, *supra*. The principal case is clearly right. Indeed the case is but another illustration of the numerous futile attacks upon legislation clearly valid under the police power.

CONSTITUTIONAL LAW — POWERS OF THE EXECUTIVE — MARTIAL LAW — TRIAL OF CIVILIAN BY MILITARY COURT. — The Governor of Texas, reciting that there had been acts of violence and danger of insurrection in Galveston and that the city authorities as well as the judge of the city court had failed to maintain order, declared the city to be in a state of martial law, suspended the city officials, and directed the general commanding the state militia to enforce order and to execute the civil law. Pursuant to this order a provost judge superseded the judge of the city court. All the other civil justices continued to perform their duties. The relator was arrested for overspeeding, tried by the provost judge, despite his request for a jury trial, sentenced to pay a fine, and committed to jail in default of payment. He now petitions for a writ of *habeas corpus*. *Held*, that the petition be denied. *United States ex. rel. McMaster* v. *Wolters*, 268 Fed. 69 (Dist. Ct. S. D. Tex.).

For a discussion of this case see NOTES, page 659, *supra*.

CONSTITUTIONAL LAW — POWERS OF THE JUDICIARY — ADVISORY OPINIONS — OBLIGATION OF COURTS TO GIVE SAME. — The Constitution of South Dakota empowers the governor to require the opinions of the Supreme Court justices upon important questions of law involved in the exercise of his executive powers and upon solemn occasions. The governor seeks their opinion as to the constitutionality of an act authorizing a $250,000 state bond issue. Bonds to the amount of $200,000 have already been issued and sold to holders. *Held*, that such opinion shall not be given. *In re Opinion of the Judges*, 180 N. W. 64 (S. D.).

The virtues and vices of advisory opinions have heretofore been minutely examined. See 3 HARV. L. REV. 228; 10 HARV. L. REV. 50; H. A. Dubuque, "The Duty of Judges as Constitutional Advisers," 24 AM. L. REV. 369. Great jurists have found the vices preponderant. See Story, J., in MASS. CONVENTION DEBATES (1820), 72; Morton, J., in 2 MASS. CONVENTION DEBATES (1853), 684; Greenleaf, *ibid*. Yet to-day the constitutions of several states provide that the governor or the legislature may require of the state supreme court advisory opinions on solemn occasions and on questions of law. See MASS. CONST., part